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DNR-FS-2023-05

SMALL BUSINESS COMPLIANCE GUIDE
Amendment to Subtitle 02 Fisheries Service
Regarding the Department's Regulations for Shellfish Aquaculture
08.02.23 Shellfish Aquaculture and Leasing
Released April 28, 2023

This Guide is prepared in accordance with the requirements of State Government Article, §10-110, Annotated Code of Maryland. It is intended to help small businesses comply with the revised rules adopted in the above-referenced sections of the Code of Maryland Regulations. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small businesses, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply.

The Department will clarify or update the text of the Guide as an idea moves through the regulatory process. Direct your comments and recommendations, or calls for further assistance, to Fishing and Boating Services Regulatory Division:

410-260-8300

410-260-8DNR; toll free in Maryland 877-620-8DNR; TTY Users Call via the Maryland Relay

I. SUMMARY & FAQs

What is being considered?

The Department is considering creating a pilot program permit structure for future aquaculture pilot programs. The Department would then be able to conduct certain voluntary pilot projects for the practical demonstration and evaluation of alternative aquaculture management methods to increase accountability as well as efficiency and value within the industry.

Why is this change necessary?

The Department believes the regulatory burden on both the management agency and the aquaculture industry can be reduced by emphasizing improved harvest accountability techniques and resulting increased efficiency value in the industry. However, rather than temporarily create additional regulations that only apply to permit holders, the Department is considering conducting pilot projects developed in cooperation with the aquaculture industry. Individuals participating in these projects would receive permits from the Department. The permits would specify the details of the project. Additionally, Natural Resource Police would be informed of all permit holders and projects. Pilot projects for demonstration and evaluation of alternative accountability practices would potentially enhance development and application of improved management practices.

Who will this affect?

This change could potentially impact shellfish aquaculture leaseholders if they choose to participate in a pilot program developed under this authority.

Has this change been discussed with stakeholders?

This idea was scoped with the Sport Fisheries Advisory Commission, Oyster Advisory Commission, and Tidal Fisheries Advisory Commission at their April 2023 meetings.

What is the specific regulatory action?

Adopt new Regulation .05 under COMAR 08.02.23 Shellfish Aquaculture and Leasing.

II. RECORDKEEPING AND REPORTING REQUIREMENTS

This action would create only new recordkeeping or reporting requirements for individuals who choose to participate in a pilot program created under this authority. The specific requirements would depend on the structure of the program.

III. IMPLEMENTATION DATE

The Department projects that this change could be effective in the summer/fall of 2023. However, the exact date cannot be determined. The Department will follow our normal proposal procedures if this concept moves forward.

This idea is in the scoping process (April 28—May 14). During the scoping process, the Department gathers suggestions and ideas from stakeholders and others about how to solve a fishery problem or address a need. The goal of scoping is to identify issues, potential impacts,

and reasonable alternatives associated with the issues so that management actions can be developed. After the public has had an opportunity to comment on possible management actions during the scoping process, the Department considers these comments and develops an appropriate management strategy.

If the action is necessary and appropriate, the rules will be promulgated following the Administrative Procedures Act described in Title 10, Subtitle 1 of the State Government Article Annotated Code of Maryland.

- The General Assembly's Administrative, Executive, and Legislative Review Committee reviews the regulatory proposal for fiscal and legal analysis.
- The proposal is printed by the Division of State Documents in the Maryland Register.
- A 30 day public comment period begins on the day of publication.
- After review of the comments, the Department may adopt the changes.
- If the Department adopts the changes, they become effective after a notice is published in the Maryland Register that announces approval and the effective date.